

RPS

27 JUL 1979

Office of Federal Register
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General Services Administration
Washington, DC 20408

Gentlemen:

Enclosed are three signed copies of this Agency's instruction which supplements the implementing procedures of the National Environmental Policy Act (NEPA). The instruction was previously published in the Federal Register in draft form for public comment and has subsequently been reviewed and approved by the Council on Environmental Quality.

We request that the instruction be published as soon as possible to meet the statutory publishing deadline of July 30, 1979. The NEPA regulations take effect on that date.

Sincerely,

/s/ James H. McDonald

James H. McDonald
Director of Logistics

Enclosure

cc: DDA

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CENTRAL INTELLIGENCE AGENCY
(Instruction LI 45-16)
NATIONAL ENVIRONMENTAL POLICY ACT
Revised Implementation Procedures

Pursuant to the provisions of the National Environmental Policy Act of 1969, as amended, (Public Law 91-190 as amended), and the Council on Environmental Quality's NEPA regulations, 40 C.F.R., Section 1500, the Central Intelligence Agency has revised internal procedures to supplement the Council's regulations implementing the procedural provisions of NEPA.

Since this instruction is for intra-Agency use, it will not be codified for publication as a section of the Code of Federal Regulations. The revised implementation procedures follow:

1. PURPOSE

This Logistics Instruction prescribes procedures for use within the Central Intelligence Agency, supplementing the Council on Environmental Quality's regulations implementing the National Environmental Policy Act (Public Law 91-190 as amended) hereinafter referred to as NEPA.

2. BACKGROUND

goals, Section 1500.1(a) of the NEPA regulations states that:

"The National Environmental Policy Act (NEPA) is our basic national charter for protection of the environment. It establishes policy, sets goals (Section 101), and provides means (Section 102) for carrying out the policy. Section 102(2) contains "action-forcing" provisions to make sure that Federal agencies act according to the letter and spirit of the Act. . . "

The NEPA regulations are designed to ensure that the data and analysis developed during the environmental review process are made available to Agency planners and decisionmakers at the time when it will be of most value to them in formulating, reviewing, and deciding upon proposals for agency action.

3. IMPLEMENTING PROCEDURES

a. NEPA Regulations Section 1500.6, AGENCY AUTHORITY, states that:

"Each agency shall interpret the provisions of the Act as a supplement to its existing authority and as a

mandate to view traditional policies and missions in the light of the Act's national environmental objectives. Agencies shall review their policies, procedures, and regulations accordingly and revise them as necessary to insure full compliance with the purposes and provisions of the Act. The phrase "to the fullest extent possible" in Section 102 means that each agency of the Federal Government shall comply with that section unless existing law applicable to the agency's operations expressly prohibits or makes compliance impossible."

(1) The Agency shall interpret the provisions of the Act as a supplement to its existing authority and as a mandate to address traditional activities in view of NEPA's national environmental objectives.

b. NEPA Regulations Section 1501.2, APPLY NEPA EARLY IN THE PROCESS, states that:

"Agencies shall integrate the NEPA process with other planning at the earliest possible time to insure that planning and decisions reflect environmental values, to avoid delays later in the process, and to head off potential conflicts."

(1) Types of actions initiated by private

Governmental entities for which Agency involvement is reasonably foreseeable are as follows:

(a) When an environmental assessment or environmental impact statement is required to be prepared by another Federal agency for a proposed development, demolition, construction, changed use or rezoning of property located up to 500 yards beyond the Agency property line.

(b) When an environmental assessment or environmental impact statement is required to be prepared by another Federal Agency for any proposed activity with the potential for electrical interferences within three miles of an Agency installation.

(c) When an environmental assessment or environmental impact statement is required to be prepared by another Federal agency for proposed mining operations, quarrying, blasting, heavy construction, or tunneling within three miles of an Agency installation having an appreciable manmade seismic disturbance that may interfere with the Agency's operation of precise measuring equipment and the conduct of vibration sensitive research.

(2) This Instruction and the NEPA process form the basic policy for advising potential applicants of requirements for early consultation in cases where Agency involvement is reasonably foreseeable.

(3) The Director of Logistics has been designated the responsible officer for making the identifications and implementing the policies under subsections (1) and (2) above.

c. NEPA Regulations Section 1501.4, WHETHER TO PREPARE AN ENVIRONMENTAL IMPACT STATEMENT, states that: "In determining whether to prepare an Environmental Impact Statement the Federal agency shall: Determine under its procedures supplementing these regulations (described in Section 1507.3) whether the proposal is one which: (1) normally requires an environmental impact statement, or (2) normally does not require an environmental impact statement or an environmental assessment (categorical exclusion)."

(1) Projects or actions for which environmental impact statements would normally be made include the following:

(a) Proposed construction of major new

facilities by the Agency that have a significant

impact on the environment.

(b) Agency acquisition or disposal of real property, by lease, assignment, purchase, or otherwise, the operation of which has a significant impact on the environment.

(c) Major additions or renovations of existing Agency facilities that alter the basic functions of space and have a significant impact on the environment.

(d) Master plans for facilities and installations which involve a series of actions for long-range planning and improvement having a significant impact on the environment.

(2) Projects or actions for which environmental assessments or environmental impact statements are not normally required (categorical exclusions) include the following:

(a) Repair and improvements to existing facilities that do not alter the functions of the space.

(b) Additions to existing facilities when

the present function of the facility is not changed and the addition has no appreciable effect on existing utilities, transportation, or clean air.

(c) New and replacement construction on existing installations or locations when new real estate is not required, existing transportation and utilities are not appreciably affected, no significant change in the skyline occurs when viewed from outside the installation property boundary, and no appreciable increase in noise or air pollution occurs.

(d) Changes in function of existing facilities when no appreciable change or effect to existing utilities, transportation, clean air, or noise occurs.

(e) Acquisition, use, or disposal of real property by lease assignment, purchase, or otherwise when no physical impact occurs to the environment.

(f) Actions that force displacement of personnel, affect the social or economic environment, but have no impact on the physical environment.

(g) New construction covered by an existing and approved Master Plan when the impact was previously assessed during Master Plan preparation and approval.

(3) Projects or actions which are not covered by paragraphs (1) and (2) above or which may be controversial shall have an environmental assessment prepared. This assessment will be the basis for a finding of "no significant impact" or a decision to prepare an environmental impact statement.

d. NEPA Regulations Section 1502.5, Timing, states that:

The preparation of the Environmental Impact Statement (EIS) shall be started as close to the time the Agency is developing a proposal so that the EIS can be included in any recommendation or final report on the proposal.

e. NEPA Regulations Section 1502.9, Draft, Final, and Supplemental Statements, states that:

(1) Draft Impact Statements

After a determination has been made that the proposed action is a major Federal action significantly

affecting the environment, a draft EIS shall be prepared. At the earliest possible stage of draft EIS preparation, Federal, State, and local agencies shall be contacted to obtain views, comments and information about potential impacts of the proposed actions.

(2) Final Environmental Impact Statement

The final EIS must reflect all the site data; and substantive comments submitted by other Federal, State, and local officials, individuals, and groups; and Agency responses to above comments.

(3) Supplemental Statements

A supplemental EIS shall be prepared when the Agency makes substantial changes in the proposed action that are relevant to the environmental concerns. The supplement shall only address those new factors and the conclusions of the original EIS. The supplemental EIS shall be prepared, circulated and filed as an addendum to the original EIS.

f. NEPA Regulations Section 1505.1, Agency

Decisionmaking Procedures, states that:

(1) The Director of Logistics has been designated the Responsible Official who shall:

(a) Determine if proposed Agency actions require environmental impact statements. (b) Ensure the fullest practicable provision of timely public information relative to Agency plans for actions of the type described in paragraph 3.c. which will impact on the human environment, and he shall obtain views and comments of interested parties before taking final administrative action.

(2) The Chief, Real Estate and Construction Division, will assist the Director of Logistics as required, including the following:

(a) Provide technical competence for assessment studies of proposed projects and actions.

(b) Develop environmental impact statements when they are deemed necessary.

(c) Maintain a list of actions for which environmental statements are being prepared, revising the list as proposed

actions are added or dropped.

(3) The Logistics and Procurement Law Division (Office of General Counsel) shall review and approve all environmental assessments, environmental impact statements, and supplements as well as other matters pertaining to environmental law.

(4) Independent Operating Officials shall review proposed projects with the Director of Logistics at the earliest possible stage of the proposal.

g. NEPA Regulations Section 1506.6, Public Involvement, states that:

In accordance with NEPA Regulations Section 1506.6(e), interested persons can obtain information or status reports on environmental impact statements and other elements of the NEPA process except for classified information provided under NEPA Regulations Section 1507.3. This information can be obtained by contacting Director of Logistics, Central Intelligence Agency, Washington, D.C. 20505, Tel. [REDACTED]

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h. NEPA Regulations Section 1507.3(b), Agency Procedures, states that: "Agency procedures shall comply with these

regulations except where compliance would be inconsistent with statutory requirements and shall include:"

(1) Those procedures required by paragraphs 3.b. (NEPA Regulations Section 1501.2, Apply NEPA Early in the Process), 3.c.(3) (NEPA Regulations Section 1502.9, Supplemental Statements), 3.f. (NEPA Regulations Section 1505.1, Agency Decisionmaking Procedures), 3.g. (NEPA Regulations Section 1506.6, Public Involvement) above, and NEPA Regulations Section 1508.4 (Categorical Exclusions).

(2) Criteria for typical classes of actions are included in paragraphs 3.c.(1), 3.c.(2), and 3.c.(3) above and respectively represent actions which normally require an environmental impact statement, categorical exclusions, and environmental assessments.

(3) NEPA Regulations Section 1507.3(c), states: "Agency procedures may include specific criteria for providing limited exceptions to the provisions of these regulations for classified proposals. They are proposed actions which are specifically authorized under criteria established by an Executive Order or statute to be kept secret in the interest of national defense or foreign policy and are, in fact, properly classified

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pursuant to such Executive Order or statute.

Environmental assessments and environmental impact statements which address classified proposals may be safeguarded and restricted from public dissemination in accordance with agencies' own regulations applicable to classified information. These documents may be organized so that classified portions can be included as annexes in order that the unclassified portions can be made available to the public."

(4) The following points are to be covered in draft and final environmental impact statements:

(a) Describe the proposed action and its purpose.

(b) Describe the existing environment to be affected, supplemented with maps, photos, charts, and other graphic media commensurate with the extent of the impact and with amount of information required at the particular level of decisionmaking.

(c) State relationship of proposed action to land-use plans, policies, and

controls for the affected area.

(d) Describe the probable impact on the environment in both positive and negative aspects. Include primary and secondary consequences which cannot be avoided such as pollution, urban congestion, and threats to environmental goals.

(e) State alternatives to the proposed action and illustrate desirability relative to the recommended course of action proposed. Discuss alternative measures to compensate for losses to wildlife and alternate design approaches that significantly affect consumption of energy or other resources.

(f) Discuss the relationship between local, short-term use, and the maintenance and enhancement of long-term productivity of man's environment.

(g) Identify any irreversible and irretrievable commitments of resources should the action be implemented. This requires identification of the extent to which the

action would curtail the range of beneficial use of the environment.

(h) Indicate other interests and considerations of Federal policy which are thought to offset the proposed action's adverse effects.

(i) Where appropriate, discuss problems and objections raised by other Federal, State, and local agencies and by the public during the review process.

(5) Review of Environmental Statements by Federal, State, and Local Agencies:

(a) To meet statutory requirements of making environmental statements available to the President, draft statements and final statements, together with the substance of all comments, shall be sent to the Office of Environmental Review, Environmental Protection Agency, 401 M Street, S.W., A-104, Washington, D.C. 20460, as soon as they are prepared. Transmit statements to the EPA in ten copies. Simultaneously, copies being sent to other agencies for review and comment should be

issued.

(b) Draft environmental statements should be circulated for review to Federal and State agencies with relevant expertise.

(c) Draft environmental statements should be submitted in all cases to the Environmental Protection Agency for review and written comment.

(d) Final environmental statements shall be published and circulated to all organizations and individuals that made substantive comments on the draft statement. In all cases, copies shall be sent to the Environmental Protection Agency.

(e) Inquiries regarding these Agency procedures, environmental impact statements, or assessments are to be directed to: Director of Logistics, Central Intelligence Agency, Washington, D.C. 20505, Tel. [REDACTED]

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